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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

**ELISHA SHEPHERD,**

Plaintiff,

v.

**MILTON J. JAKEWAY, and  
UNITED STATES OF AMERICA,**

Defendants.

Case No.A01-333 Civil (JKS)

**MOTION AND MEMORANDUM IN SUPPORT OF MOTION  
FOR RELIEF FROM ORDER IN LIMINE RE DEFENDANT  
JAKEWAY'S PURCHASE AND RENTAL OF ADULT VIDEO TAPES**

Elisha Shepherd, through her attorneys, submits the following as her motion and memorandum in support of her motion for relief from the Court's order in limine regarding the Defendant Milton Jakeway's rental and purchase of adult video tapes.

The Plaintiff understood the Court's order in limine to prevent the Plaintiff from referring to or questioning the Defendant Milton Jakeway regarding his purchase and/or rental of adult video tapes. The Court based its order on Evidence Rule 404(b)'s general prohibition of admission of character evidence to establish a propensity to engage in a particular conduct.

Evidence Rule 404(b) provides:

**(b) Other crimes, wrongs, or acts.** Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. **It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent** (emphasis added), preparation, plan, knowledge, identity, or absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, and the general nature of any such evidence it intends to introduce at trial.

The Plaintiff has plead a claim for intentional infliction of emotional distress as the result of Milton Jakeway viewing the contents of the subject video tape. She intends to offer evidence of Mr. Jakeway's rental and purchase of adult video tapes to demonstrate that his motive and intent for watching the video tape, which is the subject of the captioned case, was to watch an adult video tape - instead of his claimed motive and intent, which he asserts was to determine whether or not the subject video tape contained a suicide note.

The Court itself questioned Mr. Jakeway's motive for watching the Shepherd video tape when it observed:

There is no reason, absent pure curiosity or, in the event [the video tape] was labeled, lascivious motives, for the officers to view the videotape at the scene rather than seizing it and securing a warrant.

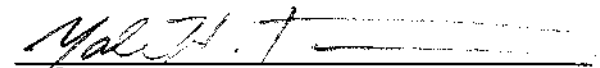
(Docket 39, p. 13.)

Given that there exists an issue with respect to Mr. Jakeway's motive and intent in watching the Shepherd video tape, and that the Court has previously recognized that this issue exists, the Plaintiff requests relief from the Court's order in limine for the purpose of demonstrating that Mr. Jakeway had


intentions and motives for watching the Shepherd video tape other than to determine whether it contained a suicide note.

DATED this 23<sup>RD</sup> day of June 2006 at Anchorage, Alaska.

The Law Offices of Yale H. Metzger  
Attorney for the Plaintiff

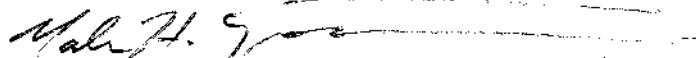
  
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DeVeaux & Associates  
Attorney for the Plaintiff

  
LeRoy E. (Gene) DeVeaux  
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A true and correct copy of the foregoing was ~~hand delivered~~ mailed to the following this 23<sup>RD</sup> day of June 2006:

Susan Lindquist, Esq.  
Assistant U.S. Attorney  
Federal Building & U.S. Courthouse  
222 West 7th Avenue, No. 9, Room 253  
Anchorage, Alaska 99513-7567

  
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